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RIGHTS OF THE CHILD

Written statement*/ submitted by Friends World Committee for Consultation (Quakers), a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[4 January 2001]

*/ This written statement is issued, unedited, as received in English and French from the submitting non-governmental organization(s).



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Child Soldiers

Friends World Committee for Consultation (Quakers) is submitting this written statement on behalf of the Coalition to Stop the Use of Child Soldiers, the members of whose Steering Committee are: Amnesty International, Defence for Children International, Human Rights Watch, International Federation Terre des Hommes, Jesuit Refugee Service, Quaker United Nations Office Geneva, Rädda Barnen (Swedish Save the Children on behalf of the Save the Children Alliance) and World Vision International, as well as regional non-governmental organisations from Africa, Latin America and Asia, and the NGO Sub-Group on Refugee Children and Children in Armed Conflict (one of the Sub-Groups of the NGO Group for the Convention on the Rights of the Child).

The Coalition to Stop the Use of Child Soldiers welcomes the important steps taken during 2000 in relation to the prohibition of the use of children as soldiers, in particular

- (i) the adoption by the UN General Assembly by consensus (25 May 2000) of the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict;
- (ii) the entry into force (19 November 2000) of the ILO Worst Forms of Child Labour Convention (No. 182);
- (iii) the increasing number of states who have signed and ratified the Rome Statute for the International Criminal Court and the African Charter on the Rights and Welfare of the Child.

Once in force, the Optional Protocol to the Convention on the Rights of the Child will strengthen the protection of children's right by raising from 15 to 18 years the minimum age for direct participation in hostilities, for compulsory recruitment, and for any recruitment or use in hostilities by non-governmental armed groups.

By December 2000, 74 states had signed and 3 had ratified this Protocol, which will enter into force once 10 states have become parties to it. The Coalition urges all states not only to sign and ratify (without reservations), and to implement the Protocol in their national law and practice but also to set a minimum age of at least 18 years for voluntary recruitment into their own armed forces, and to state this in the Declarations required under Article 3 of the Protocol. In his report to the Security Council¹ of 19 July 2000, the UN Secretary-General, Kofi Annan, called upon all Member States to ratify the Protocol and to deposit binding declarations with 18 as the minimum age for voluntary recruitment into national armed forces. We welcome the fact that Sri Lanka has done this.

The Coalition to Stop the Use of Child Soldiers opposes any recruitment of under-18s not only as a matter of principle but also because of the difficulty of ensuring that under-18s who are members of the armed forces do not in practice participate in hostilities. In the negotiations on the text of the Optional Protocol, those states who wished to continue recruiting under-18s, also insisted that they could not accept an absolute prohibition on participation but only an obligation that they would take "all feasible measures" to prevent under-18s in their armed forces from direct participation in hostilities. Even this standard has to be viewed in the light of the

¹ UN document A/55/163 – S/2000/712

declaration made by the government of the United Kingdom on signature of the Protocol, which sets out the circumstances in which they anticipate they *would* deploy under-18s in their armed forces to take a direct part in hostilities. The UK's declaration – and its interpretation of Article 1 of a Protocol whose object and purpose includes preventing any person under the age of 18 from participating directly in hostilities – must be strongly opposed in itself. However, it also illustrates the importance of not including any under-18s in government armed forces under any pretext.

The Coalition to Stop the Use of Child Soldiers calls on all governments and armed groups who currently recruit under-18s to stop doing so and to demobilise or otherwise release into safety any under-18s in their ranks. In particular, governments and others with influence are urged to use it to ensure that those armed groups who have made commitments not to recruit children and to demobilise those in their ranks do fulfil them, and to ensure that all demobilised children – boys and girls – are given access to appropriate rehabilitation and reintegration processes.

We are disturbed to discover that the optional protocol was changed after it was adopted by the fifty-sixth session of the Commission on Human Rights, so that the text presented to the General Assembly omitted the words “in years” from the requirement in Article 3 concerning raising the age of voluntary recruitment into government armed forces. These words were added by consensus during the final session of the Commission Working Group in order to make clear that the obligation was to lift the 15-year minimum age of voluntary recruitment in Article 38(3) of the Convention on the Rights of the Child by one or more years, and not merely by months. Despite representations to the United Nations Secretariat in New York this has not yet been corrected. It is unacceptable that the text as drafted and adopted by governments should be unilaterally changed by the UN Secretariat, and that several months later the Secretariat has failed to rectify the text.

We welcome the fact that, following its thematic discussion day on “State Violence against Children” (22 September 2000), the Committee on the Rights of the Child has recommended, *inter alia*, that States parties to the Convention on the Rights of the Child review any special legislation applying to children under 18 years in their armed forces to ensure that it reflects appropriately the provisions of the Convention, the UN Standard Minimum Rules for the Administration of Juvenile Justice and the UN Rules for the Protection of Juveniles deprived of their Liberty, and other applicable standards. We urge all states who currently have under-18s in their armed forces to undertake such a review as a matter of urgency.

The Rome Statute for an International Criminal Court proscribes all recruitment (conscription and enlistment) of children under 15 and all active use of them in hostilities as a war crime in both international and non-international armed conflicts. The Coalition to Stop the Use of Child Soldiers calls on all states, whether or not they are or plan to become parties to the Rome Statute, to make all recruitment and use in hostilities of children under 15 a war crime, including provision for exercising universal jurisdiction over this crime.

Finally, the Coalition remains concerned that despite some good work, the rights of the child are not fully integrated into all aspects of the work of the Office of the UN High Commissioner for Human Rights. In order to facilitate the necessary coordination, we believe that there should be a high-level post within the OHCHR mandated to ensure that all aspects of the work of the Office

incorporate the rights of the child, including field operations, technical assistance, research, and special procedures.

The Coalition to Stop the Use of Child Soldiers calls on the Commission on Human Rights to:

1. insist on immediate rectification of the text of Article 3 of the Optional Protocol to the Convention on the Rights of the Child on involvement of children in armed conflict, so that it reflects the text as adopted by the 56th session of the Commission on Human Rights;
2. urge all states who have not yet done so to sign and ratify the Optional Protocol, without reservations, and specifying at least 18 years as their minimum voluntary recruitment age in their Declarations under Article 3;
3. call on the UK Government to withdraw its declaration, made on signature, in relation to Article 1 of the Optional Protocol;
4. urge all states who have not yet done so to become parties to ILO Worst Forms of Child Labour Convention (182) and the Rome Statute of the International Criminal Court;
5. encourage all member states of the OAU who have not yet done so to sign and ratify the African Charter on the Rights and Welfare of the Child, and to take steps to establish the Committee charged with overseeing its implementation;
6. propose that states provide in their domestic law for (at least) all recruitment and use in hostilities of children under 15 to be a war crime with provision for exercising universal jurisdiction over this crime;
7. recommend to all states who currently have under-18s in their armed forces to review the law applicable to them to ensure its compatibility with the provisions of the Convention on the Rights of the Child, and UN Standards on Juvenile Justice and Juveniles Deprived of their Liberty;
8. request the OHCHR to establish a high level post within the office charged with ensuring that the rights of children are integrated into all aspects of the work of the office, including field operations, technical assistance, research, and the work of the special procedures.
